

Notary as Reporter in Money Laundering Crimes

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Abstract:- The crime of money laundering has developed, especially from the way it works which utilizes public officials to carry out their crimes, one of which is a Notary. In response to this, Government Regulation Number 43 of 2015 was amended by Government Regulation Number 61 of 2021 concerning PPT PPU Reporting Parties which specifically regulates who is categorized as a new Reporting Party in order to prevent and eradicate money laundering. Reporting Parties are any person who, according to laws and regulations governing the prevention and eradication of money laundering crimes, is required to submit a report to the Financial Transaction Reports and Analysis Center (hereinafter abbreviated as PPATK). In this article, there are two legal issues, namely: How is the legal protection of a notary as a reporter regarding the crime of money laundering and how the Notary's Precautionary Principles Form in Preventing Money Laundering Crimes. The research method used is normative juridical, with a conceptual, statutory and case approach. While the results of the discussion for a notary public, it is vulnerable to being used by perpetrators of money laundering crimes to hide or disguise the origin of assets that are the result of criminal acts by taking cover behind the provisions of confidentiality of professional relations with Service Users which are regulated in accordance with statutory provisions. The reporting obligation by the profession has been implemented in many countries and has had a positive impact on the prevention and eradication of money laundering. In addition, the arrangements for the Reporting Parties and the implementation of reporting obligations by the Reporting Parties are intended to protect them from lawsuits, both civil and criminal.

Keywords:- Notary, Complainant, Money Laundering Crime.

I. INTRODUCTION

The deed has a formal function (*formalitatistis causa*), which means that for a legal action to be complete or perfect, a deed must be made as a formal condition for the existence of a legal action. In addition to its formal function, the deed has a function as evidence (*probationis causa*).¹In various business relationships, activities in the fields of banking, land, social activities, and others. The need for written evidence in the form of authentic deeds is increasing in line with the growing demand for legal

certainty in various economic and social relations, both at the national, regional and global levels.²

Notary profession has long been known in Indonesia, even long before Indonesia's independence, namely during the Dutch colonial government. At first, the existence of a Notary was a necessity for Europeans in Indonesia in an effort to create authentic deeds, especially in the field of trade.³An authentic deed made by a notary has very strong legal force, considering that an authentic deed is a perfect proof, it is not uncommon for various laws and regulations to require certain legal regulations to be made in an authentic deed, such as the establishment of a limited liability company, cooperatives, fiduciary deed, and so on. In addition to the deed made at the request of the parties. Positive law in Indonesia has regulated the position of a notary in a special law, the government together with the House of Representatives established Law Number 30 of 2004 concerning the Position of a Notary.⁴

As the provisions in Article 1 point 7 of the Notary Office Law, it is stated that:

"Notarial Deed, hereinafter referred to as Deed, is an authentic deed drawn up by or before a Notary in accordance with the form and procedure stipulated in this Law.

So it can be interpreted that the deed made by a Notary has authentic characteristics, not because the law stipulates that way, but the deed is made by or before a public official, as referred to in Article 1868 of the Civil Code, which states that:

"An authentic deed is a deed drawn up in a form determined by law by or before a public official authorized for that at the place where the deed was made".

The function of an authentic deed in terms of proof is of course expected to be able to explain in full in the process of proof at trial. Authentic deed as a product of a notary in proving at trial is categorized as documentary evidence as stipulated in Article 1 point 1 of the Notary Office Law. The notary's authority in making authentic deeds is based on the wishes of the parties, which in making it fulfills and does not conflict with the provisions of Article 1320 of the Civil Code. Based on this authority,

²Baharudin, *Kewenangan Pejabat Pembuat Akta Tanah (PPAT) dalam Proses Jual Beli Tanah*, (Jurnal Hukum Universitas Bandar Lampung, Bandar Lampung, 2014), h.27

³Hartanti Silihandari, Nisya Rifiani, *Prinsip-Prinsip Dasar Profesi Notaris, Dunia Cerdas*, Yogyakarta, 2013, h. 2-3

⁴Abdul Ghofur Anshori, *Lembaga Kenotariatan Indonesia Prespektif Hukum dan Etika*, FH UII Press Yogyakarta, 2009, h. 5

¹Liliana Tedjosaputro, *Etika Profesi Notaris dalam Penegakan Hukum Pidana*, (Yogyakarta, Bayu Indra Grafika, 1997), h. 4

notaries in carrying out their duties and obligations are required to guarantee legal certainty and provide professional services.

The position of an authentic deed essentially contains formal truths in accordance with what was stated by the parties to the notary. The procedure for making an authentic deed must be in accordance with statutory regulations, with the aim of creating certainty, order and legal protection. In addition to an authentic deed made by or before a notary public, not only because it is required by laws and regulations but also because it is desired by interested parties to ensure the rights and obligations of the parties for the sake of certainty, order and legal protection for interested parties as well as for the community. Overall.⁵

In the modern era, the development of crime in the world of law is growing because of a purpose and intention that is not good for certain parties. One of the crimes that may occur in the legal profession is committed by the notary profession. In principle, the notary only confirms the wishes of the parties, not on the notary's initiative. An authentic deed made may indicate that it contains elements of a criminal act, this is due to the notary's lack of caution towards the parties facing the making of an authentic deed who often take opportunities for their own benefit by committing crimes such as providing fake letters and false statements into the deed. made by a notary. One of them, with the deed, as a tool for money laundering crimes.

The crime of money laundering is usually carried out by "laundering" the proceeds of crime in the form of money, commonly referred to as "illegitimate money" or "dirty money". The illicit money is generally obtained from drug sales, gambling, bribery, prostitution, terrorism and white-collar crime as well as tax evasion.) and other crimes.⁶ The assets resulting from the proceeds of the crime are not directly used by the perpetrators of the crime because this will make it easier for law enforcement officials to trace and trace the origin of the proceeds of the crime.

The perpetrators of these crimes usually use the financial system (financial system) to "park" the proceeds from the crime so that it appears as if these funds are lawful and clean from proceeds of crime. The proceeds of the crime are processed through obfuscation or disguising the funds so that they appear to be clean funds and separate from the assets originating from the crime as referred to and better known as money laundering.

Money laundering (money laundering), needs to get a response in handling it. This cannot be separated from the political realm of criminal law, especially with regard to whether or not this act deserves to be criminalized/criminalized. The criminalization policy is to stipulate an act that was originally not a crime (not criminalized) to become a criminal offense (an act that can be punished). So, in essence the criminalization policy is part of the criminal policy (criminal policy) by using the means of criminal law (penal), and therefore it is included as part of the criminal law policy (penal policy).⁷

Related to this, in the context of tackling crime, various means are needed as a reaction that can be given to criminals, in the form of criminal and non-criminal sanctions, which can be integrated with one another. If criminal means are considered relevant to tackling crime, it means that a political conception of criminal law is needed, namely holding elections to achieve criminal legislation results that are in accordance with the circumstances and situation at a time and for the future.⁸ In Indonesia, money laundering has been made a criminal act starting in 2002 as stipulated in Law Number 15 of 2002 which was subsequently amended by Law Number 25 of 2003 concerning the Prevention and Eradication of Money Laundering Crimes. However, in its development along with the mode of money laundering crime, Law Number 8 of 2010 concerning Prevention and Eradication of Money Laundering Crimes was issued, which simultaneously revoked the two previous laws (Law Number 15 of 2002 and Law Number 25 2003).

There are problems related to indications of ML in the process of making authentic deeds because the Notary Office Law does not clearly regulate the principles or steps for a notary to work more carefully in the process of making a deed for his service users, so that the notary does not have guidelines and guidance which is useful for preventing the occurrence of ML in an authentic deed made by a notary. The blurring of norms in the Law on Notary Office can be seen in Article 16 paragraph (1) letter a, it is stated regarding the obligations of a notary, that is, in carrying out his position, a Notary is obliged to act trustworthy, honest, thorough, independent, impartial, and safeguard the interests of the parties involved in the act. law. The explanation of the notary's obligations above states that, in carrying out his obligations to make authentic deeds, he is obliged to act carefully, but in the explanation of Article 16 paragraph (1) letter a of the Notary Office Law, the meaning and examples of the obligations of a notary must act carefully from that article are not explained.

⁵Habib Adjie, *Merajut Pemikiran dalam Dunia Notaris dan PPAT*, Citra Aditya Bakti, Bandung, 2014, h.21

⁶Sutan Remy Sjahdeini, *Pencucian Uang: Pengertian, Sejarah, Faktor Penyebab dan Dampaknya Bagi Masyarakat*, Jurnal Hukum Bisnis Vol. 22-No.3, 2003, h. 9

⁷Zulkarnaen Sitompul, *Tindak Pidana Perbankan dan Pencucian Uang (Money Laundering)*, Jakarta, Pilars, 2015, h.7

⁸Sudarto, *Hukum dan Hukum Pidana*, Bandung, Alumni, 1981.h.27

In the elucidation section of Government Regulation Number 43 of 2015 concerning PPTPPU Reporting Parties, it also states the aims and objectives (ratio-legis) of the addition of Reporting Parties, namely:

- For financial service providers consisting of venture capital companies, infrastructure financing companies, microfinance institutions, and export financing institutions as Reporting Parties, the background of business or business activities carried out by these companies or institutions is vulnerable to being used as a means and target for laundering crimes Money.
- For advocates, notaries, land deed officials, accountants, public accountants and financial planners who, based on PPATK research results, are vulnerable to being used by perpetrators of money laundering crimes to hide or disguise the origin of assets resulting from criminal acts by means of hiding behind them provisions for confidentiality of professional relations with Service Users which are regulated in accordance with the provisions of laws and regulations.

The addition of Reporting Parties is in line with the recommendations issued by the Financial Action Task Force (FATF), namely recommendation 23, recommendation 26, recommendation 27 and recommendation 28 which states that certain professions that carry out Suspicious Financial Transactions for the benefit of or for and on behalf of the Service User must report the Transaction to the Financial Intelligence Unit for Indonesia, in this case PPATK (Financial Transaction Reporting and Analysis Center), as PPATK Regulation Number 3 of 2021 concerning Procedures for Submitting Suspicious Financial Transaction Reports Through the GOAML Application for Professions.

The reporting obligation by the profession has been implemented in many countries and has had a positive impact on the prevention and eradication of money laundering, whether reported electronically or non-electronically. In addition, the arrangements for the Reporting Parties and the implementation of reporting obligations by the Reporting Parties are intended to protect them from lawsuits, both civil and criminal. Based on some of the things mentioned above, it is necessary to find solutions to problems that do not yet have clear provisions on the role of a Notary as a reporter in TPPU which binds the Notary institution itself through INI (Indonesian Notary Association).

Based on the background description above, there are legal issues that are interesting to examine, namely: 1). What is the legal protection for a notary as a reporter regarding the crime of money laundering? and 2). How Does the Notary's Precautionary Principle Form in Preventing Money Laundering Crimes?

II. METHODOLOGY

The discussion of this article uses normative legal research, carried out by examining various kinds of formal legal rules such as laws, literature that is theoretical in nature which is then linked to the issues that are the subject of discussion.⁹ Approach to the problem in the preparation of this thesis, using three kinds of approaches, statutory approach, conceptual approach and case approach.

III. DISCUSSION

A. Legal Protection for Notaries as Reporters Regarding Money Laundering Crimes

The legal profession, including the Notary profession, is a special profession that is the same as other noble professions,¹⁰ namely the profession in the fields of health services, educational services, and spiritual services. The specialty is that in essence this profession occurs in a service to humans or society, meaning that even though people who carry out the profession live from this profession, the nature of the profession demands that it is not the living that is the main motivation, but the willingness to serve others.¹¹

Notaries are also known as officium nobile, that social institutions known as Notaries arise from the need for social relations among human beings, which requires evidence for him regarding the civil law relationship that exists and/or occurs between them; an institution with its servants who are confirmed by public authority (Openbaargezag) for where and when the law requires it or is desired by the community, to make written evidence that has authentic power.¹²The main objective of institutionalizing a Notary is to provide better guarantees for the interests of the community, therefore it should not be forgotten that a Notary has a function that must be dedicated to the general public and is not intended by law to give a Notary a strong position for the interests of the public. Notary itself, but for the public interest. Even though the Notary is given special authority and trust by law. Everything is meant for none other than so that the Notary can carry out his duties as well as possible for the public interest, not for his own interests.

Notary as a public official authorized to make authentic deeds. Notary has an important role in every legal relationship in community life, because in carrying out this legal relationship, written evidence is needed through an authentic deed. The need for certainty, order and legal protection is increasing nowadays, in line with the demands for the development of economic and social relations, both

⁹ Peter Mahmud Marzuki. *Penelitian Hukum*. (Jakarta, Kencana Prenada Media Group, 2016), h.194

¹⁰ Sutrisno, H dan Wiwin Yulianingsih, *Etika Profesi Hukum*, (Yogyakarta, Andi Offset, 2016), h.34

¹¹ Abdul Ghofur Anshori, *Lembaga Kenotariatan Indonesia Perspektif Hukum dan Etika*, (Yogyakarta, UII Press, 2009), h.60-61

¹² G. H. S Lumbun Tobing, *Peraturan Jabatan Notaris*, Erlangga, Jakarta, 1983, h. 2.

at the national, regional and global levels. It is hoped that an authentic deed will clearly define the rights and obligations of the parties, guarantee legal certainty and be able to avoid disputes.

Notaries in carrying out their duties and positions adhere to the Notary Office Law and the Notary Code of Ethics. The Code of Ethics that currently applies is the Code of Ethics for Notaries of the Indonesian Notary Association (I.N.I) based on the Extraordinary Congress in Bandung in 2005. The professional code of ethics is an applied code of ethics that can change or be changed according to developments in science and technology. The professional code of ethics is an embodiment of essential moral values and cannot be separated from the outside, therefore it is only effective if it is imbued with the ideals and values that live within the profession itself, so that it can become a benchmark for the actions of members of professional groups in seeking prevention unethical behavior towards its members.¹³

Law Number 2 of 2014 concerning the Office of a Notary states more broadly, that this obligation to keep confidential also includes information obtained by a notary in the exercise of his position. This is because the position held by a notary is a position of trust so that someone entrusts a trust to him. In carrying out the duties of his position, the Notary as a person who is trusted by the client, the Notary is obliged to keep confidential everything that is notified by the client to him. This is the basis of the implementation of a confidential profession (trusted position) that has been given to him by the community, especially his clients.

This secret must be maintained even though the professional relationship between the notary and the client has ended. On the other hand, Article 1909 of the Civil Code (the Civil Code) explains that every capable person is obliged to be a witness and give testimony before a court. In general, anyone can be a witness, but Articles 168 and 170 of the Criminal Procedure Code (KUHAP) also regulate several parties who cannot be witnesses. Article 168 of the Criminal Procedure Code (KUHAP) provides an exception for witnesses who are related to the defendant. Whereas in Article 170 paragraph (1) of the Criminal Procedure Code (KUHAP) explains about *verchoningsrecht* (right to resign) to provide testimony for those who because of their position, dignity and work are obliged to keep secrets.¹⁴

According to Article 322 of the Criminal Code (KUHP) and according to Article 146 HIR (Herzien Inlandsch Reglement) and Article 277 RIB (Reglement Indonesia) there are categories of people who because of their position or work are considered obligated to keep secrets. According to Article 322 of the Criminal Code

(KUHP) there are criminal sanctions against people who are categorized as those who deliberately reveal secrets. Meanwhile, according to Article 146 HIR (Herzien Inlandsch Reglement) and Article 277 RIB (Reglement Indonesia) they may refuse to give testimony regarding the secret of the position.

Along with the development of legal dynamics in Indonesia, Laws were issued that regulate the development of new types of crimes. This new crime also more or less uses the services of a notary to obtain legal certainty. One of the crimes currently being developed in Indonesia is the Crime of Money Laundering. Money laundering is included in the category of white-collar crimes or better known as tie crimes. In white collar crime, the perpetrators of crimes are very different from other conventional criminals, usually the perpetrators in white collar crimes are people who are respected and have a high level of education.

Money laundering (money laundering) is a process or act that uses money from the proceeds of a crime, the continuation of the act, the origin of the money is hidden or obscured by the perpetrator, as if the money were legitimate proceeds. Efforts to eradicate and prevent money laundering have been made maximum efforts by the international community, one of which was the formation of The Financial Action Task Force on Money Laundering (FATF) with the aim of compiling international tasks and recommendations to combat money laundering. In addition, it was marked by the birth of the 1988 United Nations (UN) convention, or better known as the Vienna Convention.

The efforts of the Indonesian government to date have been seen, as evidenced by the issuance of Law Number 15 of 2002 which was revised by Law Number 25 of 2003 concerning the Crime of Money Laundering, and most recently the issuance of Law Number 8 of 2010. The real action of the Indonesian government in combating money laundering is to establish the PPATK (Financial Transaction Reporting and Analysis Center) as an independent institution that oversees all transactions deemed suspicious. This institution also functions as an authority institution (financial intelligence unit) which receives various reports regarding all transactions that are indicated as suspicious.

Along the way, the perpetrators of money laundering also use the services of a Notary to obscure their actions. The use of notary services aims to provide legal certainty that their actions are legal in the eyes of the law so that their crimes are covered. It is not uncommon for money laundering to involve a notary as a witness against the actions committed by the client or service user. In Law Number 8 of 2010 concerning Prevention of Money Laundering Crimes in Article 44 it is stated that in the interests of carrying out the duties of the Financial Transaction Reports and Analysis Center (PPATK) 7 may request information from parties related to indications of Money Laundering Crimes. One of the parties that may be asked for information is a Notary, because the perpetrators

¹³*Ibid*, h.45

¹⁴ Rahmat, A. M. (2018). *Perlindungan Hukum terhadap Notaris yang Beritikad Baik Membuat Akta Jual Beli Saham dalam Kasus Tindak Pidana Pencucian Uang*. 6(1), 97–116

of money laundering use the services of a Notary to obtain legal validity.¹⁵

In the *modus operandi* carried out by the perpetrators of money laundering crimes, namely by placing, paying, spending, depositing, exchanging, hiding, disguising, investing, storing, granting, inheriting or transferring money to obscure or separate or mix legitimate assets. Apart from going through banking institutions, the perpetrators also bought assets in the form of land and buildings.¹⁶

Criminal acts of money laundering originating from criminal acts, often perpetrators take advantage of notary media in the form of buying and selling land or buildings. Buildings and land are an investment because the prices of these buildings and land will continue to increase over time. The notary here has the role of making a deed related to the sale and purchase. In relation to the responsibility of a notary related to ML, a notary can be criminally responsible, namely being a witness, expert or suspect.

In practice, it is indeed difficult for a notary to find out the source of funds used to carry out a land/building sale and purchase transaction that involves a notary making the authentic deed. The notary, of course, does not know exactly the source of the funds used. However, if the notary knows or at least suspects the source of the funds, the notary can report it to PPATK as a form of implementing the notary's prudential principle in making a deed to participate in preventing the crime of money laundering. Consideration of including a notary as a reporting party in the prevention and eradication of money laundering crimes against deeds drawn up by a notary because a notary deed is an agreement between the parties that is binding and applies as law for these parties, therefore the legal terms of an agreement must be fulfilled as stipulated in Article 1320 of the Civil Code.

The provisions of Article 38 paragraph (3) letter c UUJN emphasize that the contents of the deed are the wishes and wishes of the parties who appear before the notary. Thus, the contents of the deed are the wishes or desires of the appearers themselves, not the wishes or wishes of the notary, but the notary only frames it in the form of a notary deed in accordance with UUJN. Therefore, if the contents of the deed are disputed by the parties or other interested parties, this matter relating to the contents of the deed is their own problem.¹⁷

¹⁵ Nugraha, S. A. (2021). *Prinsip Kehati-hatian Notaris Dalam Membuat Akta Sebagai Bentuk Perlindungan Hukum Dari Tindak Pidana Pencucian Uang*. Signifikan Humaniora, 2(3), 13–22.

¹⁶ Murtadha, T. U., Ali, D., & Din, M. (2019). *Kewajiban Notaris Melaporkan Transaksi Mencurigakan Dalam Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang*. Syiah Kuala Law Journal, 3(3), 364–379. <https://doi.org/10.24815/sklj.v3i3.12486>

¹⁷ Habib Adjie, *Merajut Pemikiran dalam Dunia Notaris & PPAT*, Bandung: PT.Citra Aditya Bakti, 2014, h.30

The will of the appearers contained in the deed is materially the will or desire of the appearers themselves, not the will of the notary, and the task of the notary is only to provide advice. Even if the suggestion is followed and set forth in the deed, it is still the wish or wish of the appearer himself.¹⁸ So, a deed drawn up by or before a notary is the will or wish of the parties, not the will of the notary. At the request and desire of the parties, the notary expresses it in the form determined by law in the form of an authentic deed which has perfect evidentiary power and is binding on the parties who made it.¹⁹

In addition, a Notary as a position of trust is obliged to keep secrets regarding the deed he made and the information/statements of the parties obtained in the making of the deed, unless the law orders him to disclose the secret and provide the information/statement to the party requesting it. In connection with the obligation to keep the contents of the deed secret and all other information related to the notarial deed, this secrecy provides ample space for movement of proceeds of crime through services provided by a notary which is then used by money launderers to carry out laundering activities money.²⁰

However, the existence of UUTPPU provides protection to the notary as a Reporting Party to be released from the confidentiality obligation as stipulated in Article 28 UUTPPU which is exempt from the confidentiality provisions that apply to the Reporting Party concerned and for reporting carried out as Article 29 UUTPPU to the Reporting Party cannot prosecuted both criminally and civilly. The consideration of including a notary as a reporting party in the prevention and eradication of money laundering in Indonesia is based on the results of research by the Financial Transaction Reports and Analysis Center (PPATK) that notaries are vulnerable to being used by perpetrators of money laundering to hide or disguise the origin of assets resulting from from the criminal act of money laundering by taking refuge behind the confidentiality provisions owned by a notary as a public official.

With the existence of Government Regulation Number 43 of 2015 as amended by Government Regulation Number 61 of 2021 concerning Reporting Parties in the Prevention and Eradication of Money Laundering Crimes, in Article 3 of this Government Regulation requires a

¹⁸ Habib Adjie, *Menjalin Pemikiran-Pendapat Tentang Kenotariatan (Kumpulan Tulisan)*, (Bandung: PT.Citra Aditya Bakti, 2013), h.132

¹⁹ Maulidia, N. K., & Swardhana, G. M. (2020). *Kewenangan Notaris Dalam Mengenali Pengguna Jasa dan Perlindungan Hukum Jika Terjadi Tindak Pidana Pencucian Uang*. Acta Comitatus, 5(2), 274. <https://doi.org/10.24843/ac.2020.v05.i02.p06>

²⁰ Muhammad Raditya Pratama Ibrahim, Amad Sudiro, *Kewenangan Dan Perlindungan Hukum Bagi Notaris Sebagai Pihak Pelapor Transaksi Mencurigakan*, Jurnal Masalah-Masalah Hukum, Volume 51, Nomor 2, April 2022, h.188-198

notary as a reporting party for alleged ML crimes committed by their service users against deed to be drawn up by or before a notary.

B. Form of Notary's Precautionary Principles in Preventing Money Laundering Crimes

Consideration of inclusion of the notary profession as a reporting party because notaries are very vulnerable to being exploited by perpetrators of money laundering by using their services to hide the origin of assets and disguise their assets obtained from the proceeds of criminal or illegal acts, because notaries have an obligation to keep everything related to the client. Notaries are used by perpetrators of money laundering as gatekeepers. However, the method used by the government by including a notary as a reporting party reaped several debates and brought legal issues, one of which was that the client had the right to have his privacy protected by a notary.

Professionals, including notaries, in reporting suspicious transactions must apply the principle of recognizing service users to their clients before carrying out transactions or legal actions. Notaries are considered capable of estimating based on data or information they have or based on general practice, they can judge that a certain amount of money or assets is the result of a crime.²¹

- Recognize the Identity of the Appearing Person. In carrying out his duties, a notary before starting to make a deed, of course, is faced with parties who want to make an authentic deed, of course, before entering the identities of the parties into a deed, the notary must check the identities of the parties such as KTP, KK, or Passport and match the photo of the owner's identity with parties who make authentic deeds, in order to prevent falsification of identity on deeds made by a notary.
- Carefully verifying the data of the subject and the object in front of them. The purpose and objective of Verifying is to check the subject data of the parties whether they are authorized and competent or not in carrying out legal actions so that they can fulfill the legal requirements of a deed such as whether the party acting is at least 18 years old or married according to Article 39 paragraph 1 letter a UUJN. While part of the process of validating object data is part of the process of examining object documents brought by appearers, for example checking land certificates with the National Land Agency whether the certificate is genuine or fake or is it true or not the person concerned (appearers) has the certificate the.
- Provide a grace period in processing authentic deed. In working on a deed in order to produce a good deed, the notary should provide a grace period in the process of making the deed so that he is not in a hurry and can work carefully and thoroughly so as not to cause errors in the execution of the notarial deed.
- Act carefully, meticulously and thoroughly in the process of making the deed. Act carefully, meticulously and scrupulously in the process of making the deed,

especially the words contained in the deed, because in its implementation it is very common that the deed made by a notary is often questioned because the words made are unclear or give rise to interpretation.

- Fulfill all the technical requirements for making a notarial deed to make a notarial deed which is far from indicating legal problems, of course a notary must meet the formal requirements and material requirements for making a notary deed based on the Law on Notary Office, provisions regarding formal requirements in making a deed are regulated in Article 38 UUJN, the material requirements that must be met in making an authentic deed are regulated in Article 1320 of the Civil Code.
- It is hoped that through the INI Agency an application can be developed such as a Data Bank for its Clients who make the PPJB Deed and Power of Attorney for the Sale and Purchase with the completeness of the KTP and Family Card so that indications of money laundering can be anticipated, especially regarding land ownership limits that cannot exceed 20 hectares + 5 hectares, apart from that this is also in line with Article 27 and Article 28 of Regulation of the Minister of Communication and Informatics of the Republic of Indonesia Number 11 of 2018 concerning the Implementation of Electronic Certification (PSE), the Notary is given the task of examining and verifying the correctness of the Identity of the Electronic Certification Applicant.
- Report to the authorities if there are indications of Money Laundering in Transactions at a Notary.

In Article 2 of Permenkumham Number 9 of 2017 regarding the Principle of Recognizing Notary Service Users, it is stated that notaries are required to apply the principle of recognizing Service Users which at least contains identification of Service Users, verification of Service Users and monitoring of Service User Transactions. This application applies to notaries in providing services in the form of preparing and conducting transactions for the benefit of or for and on behalf of the Service User, regarding the purchase and sale of property, management of money, securities and/or other financial service products, management of current accounts, savings accounts, deposit accounts, and/or securities accounts, company operations and management; and/or establishment, buying and selling of legal entities.²²

This obligation is carried out when carrying out a business relationship with a Service User, there is a Financial Transaction in rupiah currency and/or foreign currency whose value is at least or equal to IDR 100,000,000.00 (one hundred million rupiah), there is a Suspicious Financial Transaction related to money laundering and terrorism financing crimes, or the Notary doubts the veracity of the information reported by the Service User. When conducting a business relationship

²¹ Isnaini, A. K. A., Ilmar, A., & Muchtar, S. (2014). *Kewenangan Notaris Dalam Pencegahan Tindak Pidana Pencucian Uang Melalui Pembelian Saham. Analisis*, 3(2), 132–137

²² Hutagalung, D. H. Y. (2020). *Perlindungan Hukum Terhadap Notaris Dan Ppat Sebagai Pihak Pelapor Dalam Tindak Pidana Pencucian Uang*. Jatiswara, 34(1), 100–109. <https://doi.org/10.29303/jatiswara.v34i1.225>

with a service user, the Notary is required to understand the profile, aims and objectives of the business relationship, as well as the transactions carried out by the Service User and the Beneficial Owner through identification and verification.²³

In implementing this regulation, Notaries are required to have policies and procedures to manage and mitigate identified risks of money laundering and/or financing of terrorism in accordance with risk assessments and also carry out risk assessments and classify Service Users based on the level of risk of money laundering and financing crimes. terrorism based on profile, business, country and product analysis.²⁴

In principle, a Notary must recognize his client or in the Permenkumham referred to as a Service User, by:

- Service User Identification; The notary performs identification through collecting information on the Service User. Collection of information regarding Service Users is carried out against individuals, Corporations; and other engagements (legal arrangements).
- Service User Verification; and Notaries are required to verify information and documents. In this case the notary may request information from the Service User to find out the correctness of the formal documents and if there are doubts about the correctness of the formal documents, the Notary may request other supporting documents from the authorities.²⁵

Based on the description above, it can be stated that there are indicators of notary caution for customers in financial transactions to prevent money laundering, among others by identifying the identity of the appearer, carefully verifying the subject and object data of the appearer, giving a grace period in processing the deed, acting carefully. - be careful, careful and thorough in the process of making the deed, fulfill all the technical requirements for making a deed and report if there are indications of money laundering in transactions at a notary, forms of prudential principles like this should be carried out by a notary so that later the notary can prevent the emergence of legal problems against authentic deed made in the future.

Notaries in carrying out their profession provide services to the public should behave according to applicable regulations. This is important because a Notary performs his/her official duties not solely for personal gain,

but also for the benefit of society, and has an obligation to guarantee the truth of the deeds he makes, therefore a Notary is required to be more sensitive, honest, fair and transparent in making a deed to guarantee all parties directly involved in making an authentic deed.

The notary as a legal profession is one of several elements in the implementation of law whose authority is partly to issue a document in the form of a deed with the power of an authentic deed. This deed is drawn up and formalized in a form according to the applicable law, by or before public officials, who are authorized to do so at the place where the deed is made. The authentic nature of this deed is an element that fulfills the desire for the realization of legal certainty.

The authentic deed itself contains a statement of the rights and obligations of a person or individual in the civil field and therefore protects someone in that interest. Every notary must have sufficiently broad and in-depth knowledge and skills so that they are the mainstay of the community in designing, compiling and making various authentic deeds, so that the arrangement of language, juridical techniques is neat, good and correct, because apart from this expertise, honesty or sincerity is also required. or objective view.

The Notary Office Law was formed with the aim of realizing legal certainty guarantees, order and legal protection with the core of truth and justice through the deed he made, the notary must be able to provide legal certainty to the public who use notary services. Legal products issued by a notary are in the form of deeds that are authentic and have perfect evidentiary power.

Since the enactment of the Notary Office Law, all notaries in carrying out their positions must obey and be loyal to the Notary Office Law. Since the enactment of the new Notary Office Law, many notaries have always been summoned and examined both as witnesses and suspects. The role of a notary in the service sector is as an official authorized by the State to serve the public in the civil field, especially making authentic deeds. As stated in Article 1 paragraph (1) of the Notary Office Law, a Notary is a public official authorized to make authentic deeds and has other authorities as referred to in this Law or based on other laws.

In addition to the Notary Office Law, the Notary must also comply with the provisions of the contents of the Notary's oath of office, the Notary's code of ethics, the articles of association and bylaws of the Notary Association and other related regulations. As for the contents of these regulations, among others, there are provisions that oblige a Notary to keep the contents of the deed made secret and all information obtained in the process of making the deed in accordance with the oath/pledge of office, unless the law determines otherwise.

In providing legal protection to a notary, the Notary Ethics Council must look carefully at whether the reported notary is proven to have committed a violation intentionally or not in the process of making an authentic

²³ Helmi Fariska Rahma, *Tanggung Jawab Dan Akibat Hukum Notaris Dalam Melakukan Identifikasi Dan Verifikasi Data Pengguna Jasa Dalam Peraturan Menteri Hukum Dan Hak Asasi Manusia Nomor 9 Tahun 2017*, (Tesis Program Magister Kenotariatan Universitas Islam Indonesia Yogyakarta, 2018), h 83-86

²⁴ Armansyah, & Triastuti. (2018). *Beneficial Ownership dan Kewajiban Pelaporan Atas Transaksi Mencurigakan*. ADIL : Jurnal Hukum, 9(2), 2–16

²⁵ Fikri Ariesta Rahman, *Penerapan Prinsip Kehati-Hatian Notaris Dalam Mengenal Para Penghadap*, Jurnal Lex Renaissance, No. 2 Vol. 3 Juli 2018: 423 - 440

deed. If the Notary is proven to have committed a form of crime, such as forging letters or ordering to commit and/or participate in committing a crime in the process of making an authentic deed, then in this case the Honorary Council of Notaries as a legal protection institution does not need to provide a form of legal protection. anything to a Notary like that, because apart from tarnishing the good name of the Notary institution it will also have a sociological impact on society, that the Notary as a trusted institution will lose public trust.

In this case as the implementation of Article 66 paragraph (1) Notary Honorary Council, the Notary Honorary Council has the right to give approval to investigators who wish to summon a Notary to be examined in court. This is done to maintain the nobility and dignity of the notary's position itself, so that the legal protection for the notary's position is not misused by irresponsible parties involving a notary. If there is a Notary who is suspected of making a mistake (alleged to malpractice) in the process of making an authentic deed, even though the Notary has carried out his duties and authorities in accordance with the rule of law (according to the Notary Office Law and Notary Code of Ethics, the Notary Honorary Council must provide legal protection to the Notary concerned, as well as the case with the proceeds of money laundering through an authentic deed he made.

The notary has a role to determine whether an action can be set forth in the form of a deed or not. Before arriving at a decision like this, the notary must consider and see all the documents shown to the notary, examine all the evidence shown to him, listen to the statements or statements of the parties. The decision must be based on legal reasons that must be explained to the parties. These considerations must pay attention to all legal aspects including legal issues that will arise in the future. In addition, each deed drawn up before or by a notary must have reasons and supporting facts for the deed in question or there are legal considerations that must be explained to the parties/ appearers.

The precautionary principle is used to complement and perfect the implementation of the duties of a notary public because in Article 16 paragraph (1) letter a UUJN the article does not yet explain the obligations and examples of the notary's careful actions in making authentic deeds, so the notary's obligation to act carefully is not clear. and give rise to multiple interpretations. Therefore, in carrying out their duties, a notary must act carefully and thoroughly in examining documents and statements from parties who wish to make an authentic deed so as not to cause legal problems with the deed he made in the future.

This application applies to Notaries in providing services in the form of preparing and conducting transactions for the benefit of or for and on behalf of Service Users, regarding the purchase and sale of property, management of money, securities and/or other financial service products, management of current accounts, savings accounts, deposit accounts, and/or

securities accounts, company operations and management; and/or establishment, buying and selling of legal entities. Moreover, if an Application can be implemented such as a Data Bank for Clients or Service Users who make PPJB Deeds and Power of Attorney for Sale and Purchase with the completeness of KTP and Family Cards so that indications of money laundering can be anticipated, especially regarding land ownership limits that cannot exceed 20 hectares + 5 hectare.

In addition, this is also in line with Article 27 and Article 28 of the Republic of Indonesia Minister of Communication and Information Regulation Number 11 of 2018 concerning the Implementation of Electronic Certification (PSE), the Notary is tasked with examining and verifying the correctness of the Identity of the Electronic Certification Applicant. The notary has a role to determine whether an action can be set forth in the form of a deed or not. Before arriving at a decision like this, the notary must consider and see all the documents shown to the notary, examine all the evidence shown to him, listen to the statements or statements of the parties. The decision must be based on legal reasons that must be explained to the parties. These considerations must pay attention to all legal aspects including legal issues that will arise in the future. In addition, each deed drawn up before or by a notary must have reasons and supporting facts for the deed in question or there are legal considerations that must be explained to the parties/ appearers.

IV. CONCLUSION

Based on the results of the study in the discussion, the authors conclude that the background of the rationality of the notary profession as a reporter in the crime of money laundering is a manifestation in Article 16 paragraph (1) letter a of the Notary Office Law regarding the obligations of a notary, namely that in carrying out his position, a notary is obliged to act trustworthy, honest, thorough, independent, impartial, and safeguarding the interests of the parties involved in legal actions. In addition, it is stipulated in Government Regulation Number 43 of 2015 as amended by Government Regulation Number 61 of 2021 concerning Reporting Parties in the Prevention and Eradication of Money Laundering Crimes, that the profession of a Notary as a reporting party for alleged money laundering crimes for the deed he made.

Submission of reports on suspicious financial transactions can be done in two ways, namely electronically and non-electronically. PPATK has made arrangements regarding reporting with the issuance of PPATK Regulation Number 3 of 2021 concerning Procedures for Submitting Suspicious Financial Transaction Reports Through the GOAML Application for Professions. Legal protection will be given to a notary as a reporter regarding the criminal act of laundering in connection with a suspicious financial transaction requested by the PPATK to be reported by the notary because it involves assets that are suspected of originating

from the proceeds of a crime. Notaries are required to apply the principle of recognizing service users as part of the precautionary principle which at least contains identification of service users, verification of service users and monitoring of service user transactions.

The authority that a notary has in his obligation to report suspicious transactions is by identifying service users through the principle of recognizing service users. In applying the principle of recognizing service users, a notary has the authority stipulated in PERMENKUMHAM 9/2017 to apply the principle of service users by identifying service users, verifying service users, and monitoring service user transactions related to buying and selling property; management of money, securities, and/or other financial service products; management of current accounts, savings accounts, deposit accounts, and/or securities accounts; operation and management of the company; and/or establishment, buying and selling of legal entities. The notary is also authorized to make policies and procedures to manage and mitigate the identified risks of money laundering and/or terrorism financing in accordance with a risk assessment. Article 17 paragraph (5) notaries also have the authority to approve or reject business relationships with potential service users and beneficiaries who are at high risk, and notaries are also authorized to continue or terminate business relationships with service users and beneficiaries who are classified as high risk.

REFERENCES

- [1.] Liliana Tedjosaputro, *Etika Profesi Notaris dalam Penegakan Hukum Pidana*, (Yogyakarta, Bayu Indra Grafika, 1997), h. 4
- [2.] Baharudin, *Kewenangan Pejabat Pembuat Akta Tanah (PPAT) dalam Proses Jual Beli Tanah*, (Jurnal Hukum Universitas Bandar Lampung, Bandar Lampung, 2014). h.27
- [3.] Hartanti Silihandari, Nisya Rifiani, *Prinsip-Prinsip Dasar Profesi Notaris, Dunia Cerdas*, Yogyakarta, 2013, h. 2-3
- [4.] Abdul Ghofur Anshori, *Lembaga Kenotariatan Indonesia Perspektif Hukum dan Etika*, FH UII Press Yogyakarta, 2009, h. 5
- [5.] Habib Adjie, *Merajut Pemikiran dalam Dunia Notaris dan PPAT*, Citra Aditya Bakti, Bandung, 2014, h.21
- [6.] Sutan Remy Sjahdeini, *Pencucian Uang: Pengertian, Sejarah, Faktor Penyebab dan Dampaknya Bagi Masyarakat*, Jurnal Hukum Bisnis Vol. 22-No.3, 2003, h. 9
- [7.] Zulkarnaen Sitompul, *Tindak Pidana Perbankan dan Pencucian Uang (Money Laundering)*, Jakarta, Pilars, 2015, h.7
- [8.] Sudarto, *Hukum dan Hukum Pidana*, Bandung, Alumni, 1981.h.27
- [9.] Peter Mahmud Marzuki. *Penelitian Hukum*. (Jakarta, Kencana Prenada Media Group, 2016), h.194
- [10.] Sutrisno, H dan Wiwin Yulianingsih, *Etika Profesi Hukum*, (Yogyakarta, Andi Offset, 2016),h.34
- [11.] Abdul Ghofur Anshori, *Lembaga Kenotariatan Indonesia Perspektif Hukum dan Etika*, (Yogyakarta, UII Press, 2009), h.60-61
- [12.] G. H. S Lumbun Tobing, *Peraturan Jabatan Notaris*, Erlangga, Jakarta, 1983,h. 2.
- [13.] Rahmat, A. M. (2018). *Perlindungan Hukum terhadap Notaris yang Beritikad Baik Membuat Akta Jual Beli Saham dalam Kasus Tindak Pidana Pencucian Uang*. 6(1), 97–116.
- [14.] Nugraha, S. A. (2021). *Prinsip Kehati-hatian Notaris Dalam Membuat Akta Sebagai Bentuk Perlindungan Hukum Dari Tindak Pidana Pencucian Uang*. Signifikan Humaniora, 2(3), 13–22.
- [15.] Murtadha, T. U., Ali, D., & Din, M. (2019). *Kewajiban Notaris Melaporkan Transaksi Mencurigakan Dalam Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang*. Syiah Kuala Law Journal, 3(3), 364–379. <https://doi.org/10.24815/sklj.v3i3.12486>
- [16.] Habib Adjie, *Merajut Pemikiran dalam Dunia Notaris & PPAT*, Bandung: PT.Citra Aditya Bakti, 2014, h.30.
- [17.] Habib Adjie, *Menjalin Pemikiran-Pendapat Tentang Kenotariatan (Kumpulan Tulisan)*, (Bandung: PT.Citra Aditya Bakti, 2013), h.132
- [18.] Maulidia, N. K., & Swardhana, G. M. (2020). *Kewenangan Notaris Dalam Mengenali Pengguna Jasa dan Perlindungan Hukum Jika Terjadi Tindak Pidana Pencucian Uang*. Acta Comitatus, 5(2), 274. <https://doi.org/10.24843/ac.2020.v05.i02.p06>
- [19.] Muhammad Raditya Pratama Ibrahim, Amad Sudiro, *Kewenangan Dan Perlindungan Hukum Bagi Notaris Sebagai Pihak Pelapor Transaksi Mencurigakan*, Jurnal Masalah-Masalah Hukum, Volume 51, Nomor 2, April 2022,h.188-198
- [20.] Isnaini, A. K. A., Ilmar, A., & Muchtar, S. (2014). *Kewenangan Notaris Dalam Pencegahan Tindak Pidana Pencucian Uang Melalui Pembelian Saham*. Analisis, 3(2), 132–137
- [21.] Hutagalung, D. H. Y. (2020). *Perlindungan Hukum Terhadap Notaris Dan Ppat Sebagai Pihak Pelapor Dalam Tindak Pidana Pencucian Uang*. Jatiswara, 34(1), 100–109. <https://doi.org/10.29303/jatiswara.v34i1.225>
- [22.] Helmi Fariska Rahma, *Tanggung Jawab Dan Akibat Hukum Notaris Dalam Melakukan Identifikasi Dan Verifikasi Data Pengguna Jasa Dalam Peraturan Menteri Hukum Dan Hak Asasi Manusia Nomor 9 Tahun 2017*, (Tesis Program Magister Kenotariatan Universitas Islam Indonesia Yogyakarta, 2018), h 83-86
- [23.] Armansyah, & Triastuti. (2018). *Beneficial Ownership dan Kewajiban Pelaporan Atas Transaksi Mencurigakan*. ADIL: Jurnal Hukum, 9(2), 2–16
- [24.] Fikri Ariesta Rahman, *Penerapan Prinsip Kehati-hatian Notaris Dalam Mengenal Para Penghadap*, Jurnal Lex Renaissance, No. 2 Vol. 3 Juli 2018: 423 – 440.